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Good afternoon. My name is Jonathan S. Corchnoy. I live in NJ. I am the father of an autistic child, and because of him, I have become a special education lawyer. When my wife and I were first doing an IEP for him, and Gloucester Township SD promised in it that he would be placed in a 'distraction free environment," I asked what had they done for that aspect and the social worker's reply: "We always put that in there, but we've never actually done anything about that." Two months later the school principal told my wife that: "Your child is unteachable." We home school now because - quite frankly - we couldn't do any worse.

My testimony concerns the timeliness of Due Process Hearings.

It has been my experience and the experience of many other parents and litigators in the State of NJ for an OAL hearing and decision to take in excess of 6 months from a party's request for a hearing.

This time delay is in clear violation of the procedural safeguards of the IDEIA, 20 USC §1415, and the corresponding United States Department of Education Regulation 34 CFR §300.511 "Timelines and convenience of hearings and reviews."

Specifically, Subsection (a) of that CFR regulation states:

The public agency shall ensure that not later than 45 days after the receipt of a request for a hearing—

- (1) A final decision is reached in the hearing; and
- (2) A copy of the decision is mailed to each of the parties.

I realize that under the IDEIA, there is now a mandatory 30 mediation period that precedes that 45 day time limit, but even so, NJ is outrageously out of compliance with the law. Nevertheless, there is no exceptions for this timeline - None - not even if the parties agree to a continuance.

Justice delayed is justice denied, and with our children days matter. To them, weeks are years and months are decades. Every day lost because a judicial officer hasn't had time to hear a case and make a decision is lost to them and they won't make it back.

Ironically, many more cases would probably be settled, and the caseload thereby reduced, if the day of reckoning came promptly. Pennsylvania - which has its Due Process hearings and decisions thereon within the 45 days required by law - has many more cases settle than in NJ. Their Office for Dispute Resolution hearing officers will not continue cases, even if the parties agree to a continuance. Knowing that, Plaintiffs will not file until they have a case that is ready to proceed. Knowing that, Defendants settle obvious losing cases.

How have they done that? By using a 2-Tier, as opposed to the NJ 1-Tier, administrative process, they have developed hearing officers who do nothing but Due Process hearings for IDEIA, §504 of the Rehabilitation Act of 1973, and other educational matters. They are expert in these areas. They know the law as well as anyone in this very specialized area of the law. They know the procedural safeguards, without question. They know the modified evidentiary rules for IDEIA cases. And they move the cases very quickly. Appellate review goes to an Appeals Panel; then to a Court of competent jurisdiction like the US District Court.

They do this using part-time hearing officers who are paid \$55.00/hour which translates to \$110,000.00/year for a full-time equivalent without benefits. Since they are part-timers, the state may hire many more than a few administrative law judges (who currently receive about \$120,000/year plus benefits). Since they are many, they may hold many more Due Process hearings per day than in NJ. Yet the need drops because hearings may proceed timely - not 6 months later.

Thank you.